CITY COUNCIL MINUTES
CITY HALL COUNCIL CHAMBERS
SANTA MARIA, CALIFORNIA
REGULAR MEETING

FEBRUARY 7, 2012

CALL TO ORDER:
Mayor Lavagnino called the Regular Meeting of the City Council to order at 5:30 p.m.

ROLL CALL:
MEMBERS PRESENT
Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino.

PUBLIC COMMENT:
Ricardo Soto spoke about the shooting of Officer Albert Covarrubias, Jr. and asked the Council to direct City Manager Haydon to terminate Police Chief Macagni.

Terri Zuniga spoke about the leadership of Police Department, and that the Council should not abdicate the supervision and management of the Chief of Police to the City Manager.

Consuelo Aguilar, PUEBLO, commented that an investigation into the police shooting would take a long time, but the City could not afford another shooting. She asked the Council to direct the City Manager to terminate the Police Chief.

Mariana Perez, PUEBLO, spoke about the safety of the City and the investigation into the police shooting. The City could not afford another shooting under Chief Macagni's leadership. She asked the Council to direct the City Manager to terminate the Police Chief.

Hazel Putney, PUEBLO, spoke about the safety of her family and community and asked the Council to direct the City Manager to fire Chief Macagni.

Joann Marmolejo commented about a group who would be meeting at the Library to discuss bringing businesses and high paying jobs to Santa Maria. The recent police incident made news across the country, and could prevent businesses from settling in the City.

Vibianna Saavedra criticized the police management and requested the Council to direct the City Manager to terminate Chief Macagni.

RECESS:
Mayor Lavagnino recessed the City Council meeting to a Closed Session at 5:43 p.m. to consider:

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION regarding significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: (one potential case)

Mayor Lavagnino indicated that the Council would be discussing the recent Officer involved shooting.

RECONVENE:
Mayor Lavagnino reconvened the regular City Council meeting at 6:30 p.m. with all members present.

INVOCATION:
City Manager Haydon gave the invocation and asked for a moment of silence in memory of Alberto Covarrubias, Jr.

PLEDGE OF ALLEGIANCE TO THE FLAG:
Councilmember Cordero led the Pledge of Allegiance.

STAFF MEMBERS PRESENT
City Manager Haydon, City Attorney Trujillo, Acting Assistant City Manager Lara, Police Chief Macagni, Director of Public Works/City Engineer Whitehead, Director of Administrative Services Visé, Director of Utilities Sweet, Director of Community Development Appel, Fire Chief Orr, City Librarian Housel, Management Analyst II van de Kamp, and Acting Chief Deputy City Clerk Garietz.

Mayor Lavagnino stated that the Closed Session would continue at the end of the regular meeting.

ANNOUNCEMENT
Police Chief Macagni gave a report on the recent officer-involved shooting of Police Officer Alberto Covarrubias, Jr. on January 28, 2012. He gave his condolences to the officers involved, the entire department, and the family members who have been impacted by this tragic situation. He commented that there had been a lot of erroneous information in the media that needed to be addressed, but some things could not be discussed for confidentially reasons and the ongoing investigations.

Police Chief stated that immediately after the shooting, the Santa Barbara County Sheriff's department was contacted and they will conduct a criminal investigation into the shooting incident. The Santa Maria Police Department was bifurcated from the investigation process and would not be apprised of the status until the investigation is completed and its report is submitted to the Santa Barbara County District Attorney's Office, who will make a ruling as to whether the shooting was justified or not. Due to the sensitivity and complexity of the matter, the City Attorney's office has contracted with an outside agency to conduct the internal affairs investigation, which he supports 100 percent. The Police Chief would not be involved in the internal affairs investigation, and the status of the investigation will be provided directly to the City Attorney.

Chief Macagni stated that an acquaintance of a 17-year old high school student contacted a Police Detective after it was revealed that the minor was having inappropriate relationship with Officer Albert Covarrubias, Jr. Information they had at the time related to an exchange of gifts. It was immediately reported to the District Attorney's office, who informed the supervisor that there was no crime that could be prosecuted without further investigation. With the parents' approval and in their presence, an interview with the teenage girl was conducted and she revealed that the relationship included unlawful sexual intercourse and oral copulation, as well as dissuading a witness. The Detectives had the teenage girl make a monitored phone call to Officer Covarrubias that lasted 15 minutes. During the phone call, Officer Covarrubias admitted to the allegations, admitted his relationship with the 17-year old high school student, and became concerned and threatening telling the young girl not to tell anyone about the relationship and ordered her to blame someone else to protect him. The Chief indicated that Officer Covarrubias insisted that she not divulge that he was involved stating that he would not go to prison, and that if she told anyone that he would kill himself.

After hearing that two Sergeant supervisors were contacted to bring Officer Covarrubias in with the intent to arrest him, but also to protect him. The supervisors approached Officer Covarrubias and attempted to take him into custody. Officer Covarrubias drew his weapon, fired his weapon, and a fight ensued on the ground with the two Sergeants yelling for help. An Officer on the line chose to engage, thereby firing his weapon to neutralize Officer Covarrubias. Police Chief Macagni stated the situation was tragic, but concluded by stating that Officer Covarrubias ceased to be a Police Officer and became an armed felon when he drew his weapon.

Police Chief Macagni also stated that this situation was not easy for him or for the men and women of the Police Department. The Federal Bureau of Investigations crisis counseling team has been brought in to assist the department. He indicated that Police Officers have to make split second decisions to save their lives and the lives of the public. Based on the information that they had at that time, they could not let Officer Covarrubias leave the checkpoint - there would have been no way to control the

situation or know what he would do. What they did know was that he made statements that implicated him and that he was going to hurt himself. They had a obligation to make the arrest at that time. Police Chief Macagni said he understood people were angry and wanted answers, but asked the public for their patience and to wait until the investigations are completed before rushing to judgment.

Mayor Lavagnino commented that this was one of the worst tragedies in the City's history. His heart ached for the men and women who work hard every day and do such an admirable job to protect and serve this community. He offered his condolences to the Covarrubias family and his friends, the men and women who were on duty that night, and especially to the Officer who was forced to fire his weapon were all in his thoughts and prayers. He knew they intended to arrest him peacefully and he was thankful that no one else was injured. The Police Department is hurting and they needed the public's support and encouragement now, more than ever. Members of the public and media have asked if there could have been a way to resolve this without use of deadly force, and that it is human nature to second-guess a person's actions, but he asked that the public not rush to judgment or come to any conclusions until all the facts have been uncovered.

City Manager Haydon stated that in addition to the Sheriff's Department conducting an investigation into the officer-involved shooting, the City has also contracted out the internal affairs investigation, and intended to contract with an independent investigator to perform a best police practices review and audit of the Police Department. He has been in contact with the Chief Attorney with the Office of Investigative Review (OIR) of the Los Angeles County Board of Supervisors. Their goal is to review the Sheriff's Department in Los Angeles County and any other law enforcement agency that requested their service to determine if policies have been violated, any misconduct had occurred, and perform investigations that are thorough, fair and transparent. As a result of the two recent officer-involved shootings, he had requested the services of OIR to conduct a thorough, comprehensive, unbiased, and dispassionate audit of the City's Police Department, its practice and its operations that would consist of reviewing policies, practices, procedures, training, tactics, and supervision. The audit will assess the Department's strengths, weaknesses, find areas needing improvement and warranting corrections. He discussed this with the Police Chief and the Command Staff, and they were in full support of the audit being lead by the City Manager and the City Attorney.

Mayor Lavagnino stated that to get answers to questions and have transparency, the City was going in the right direction by having outside agencies do the investigation into the shooting, as well as having a respected outside firm perform an audit of the Police Department's policies and practices. Now the City needed to focus on healing and to support the men and women of the Police Department.

PUBLIC COMMENT

Bob Ziener spoke about thinking positively and recommended that a model of the ship Santa Maria be built by volunteers to stimulate interest in Santa Maria.

Greg Carroll criticized police management, the City Attorney and the former City Manager, and requested the removal of the Police Chief.

Tom Radzyminski, Santa Maria Police Officers' Association Board of Directors spoke about problems within the department, moral issues and personnel complaints.

Jerry Schmidt, real estate agent and Reserve Police Officer, spoke about the shooting asking the Council and public to wait until the investigation was completed before judging or taking any action, and spoke about personal agendas of officers and employees against the Chief of Police.

Rick Bendle, Santa Maria Police Officer, commented that he served the City both on and off duty serving as a Police Officer and assisting non-profit groups and juveniles after work hours. He also spoke about the Santa Maria Police Officers' Association and its agenda against the Police Chief.

Joan Leon spoke about budget cuts leading to fewer police officers and the lack of training, and recommended that the City Council amend the employment contract of the City Manager to allow the Council to have the authority to hire and fire department heads, and not the City Manager.

Jack Owen, Jr. spoke about the shooting and asked the community to take a step back, and let the investigation produce the facts.

Toru Miyoshi asked that a public hearing be held on the matter.

Dan Hickler spoke about teamwork within the Police Department, and how bad decisions cascade down. Someone had to be held accountable.

Paul Berry, a church leader, spoke about his trust in the Police Department, and asked the Council to do the best it could to conclude the investigations and bring the community back together. He also served as a Chaplin, and offered his assistance.

David Bixby spoke about his support of the police and that there were problems developing now that Santa Maria was a larger City. He also commented about complaints to City leaders and said little had been done to remediate them.

Larry Vernon, retired Santa Maria Police Sergeant, requested the replacement of the Police Chief or the replacement of the City Manager.

Planning Commissioner Etta Waterfield spoke about her two sons who are police officers. She supported the Police Chief, City Manager Haydon, and the City Council. She asked people to wait for the investigations to be completed

Mayor Lavagnino called for a recess at 7:30 pm. The meeting reconvened at 7:37 p.m. with all Councilmembers present.

CONSENT CALENDAR

Councilmember Cordero requested a correction to the minutes of the meeting of January 17, 2012, to reflect that the presentation of the Recreation and Parks Volunteer of the Month was presented by him and not Councilmember Boysen.

Councilmember Orach requested to comment on Item 3F.

Item 3F - SMIWMF Closure/Post-Closure Fund

Councilmember Orach asked about the closure/post-closure fund for the current Regional Landfill, and $20 million in the fund.

City Manager Haydon clarified that there was a closure/post-closure fund for the current Regional landfill. Item 3F established a new closure/post-closure account for the new landfill at Los Flores Ranch, and no dollar amount had been set aside for that fund.

Director of Utilities Sweet commented that no funds would be put into the account until construction began on the new landfill.

Mayor Lavagnino asked what the closure date was for the current landfill.

Director of Utilities Sweet responded that 2015 was the official date, but believed that date could easily move to 2017. The Green Waste program and other programs implemented to deter waste from the current landfill facility had been quite effective which was extending the life of the landfill. It was a savings for the rate payers because the longer the City could extend the $25 million expenditure to occupy the new site would allow additional time for the rates could catch to pay for the capital expenditure.

Councilmember Cordero asked about the $20 million the City currently had in the fund and if it was to be used to continue monitoring the current landfill for 30 years after it closed.

Director of Utilities responded that the fund served two purposes 1) to ensure appropriate closure of the current landfill and 2) to monitor the post-closed landfill for 30 years. When the current landfill was closed, the City would only be required to retain funds for the post-closure monitoring.

Mayor Lavagnino asked if after the landfill was closed would there still be methane gas drawn from it.

Director of Utilities responded that for approximately 30-years the current landfill would be a viable generator of methane gas for secondary reuse. It would start to decline two years after closure. The landfill would still produce sizeable quantities of gas for the first 10 to 15 years, and then there would be a significant decline after that.

Consent Calendar Items 3A through 3F, with the correction to the minutes, were approved on motion by Councilmember Orach, seconded by Councilmember Patino, and carried on the following vote:

AYES: Councilmembers Boysen, Cordero, Orach, Patino, and Mayor Lavagnino
NOES: None
ABSENT: None
ABSTAIN: None

A. ORDINANCES
The reading in full of all ordinances and resolutions was waived. Ordinances on the Consent Calendar were adopted by the same vote cast at the first reading unless City Council indicated otherwise.

B. MINUTES
The Minutes of the Regular City Council and Redevelopment Agency Meeting January 17, 2012, were approved as submitted.

C. WARRANTS
Warrant Nos. 170464 to 170734 totaling $4,642,349.56 were ordered ratified subject to having been certified as being in conformity with the budget and having been approved for payment by the Director of Administrative Services. Warrant Nos. 166259, 169929, 170404, 170405, and 170406 were cancelled.

D. PAYROLL
Payment of payroll was ordered ratified subject to having been certified by the proper Department Heads, as shown on records on file in the Department of Administrative Services and having been approved for payment by the Director of Administrative Services.

E. MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN
Resolution No. 2012-08 was adopted approving the City's 2011 update of the Hazard Identification and Risk Assessment Plan in accordance with the Disaster Mitigation Act of 2000 and adopting the updated Santa Barbara County Multi-Jurisdictional Hazard Mitigation Plan.

Resolution No. 2012-08 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, ADOPTING THE 2011 CITY OF SANTA MARIA UPDATE OF THE HAZARD IDENTIFICATION AND RISK ASSESSMENT PLAN AND APPROVING THE 2011 SANTA BARBARA COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN.

F. SMIWMF CLOSURE/POST-CLOSURE FUND
Resolution No. 2012-09 was adopted authorizing the Director of Administrative Services to create a fund for the closure/post-closure maintenance and corrective action for the Santa Maria Integrated Waste Management Facility (SMIWMF) at Los Flores Ranch, and establish a fund for operational and reporting requirements pursuant to CalRecycle.

Resolution No. 2012-01 adopted. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, APPROVING THE CREATION OF THE CLOSURE/POST-CLOSURE MAINTENANCE AND CORRECTIVE ACTION FUND.

FINANCIAL REPORT FOR SECOND QUARTER ENDING DECEMBER 31, 2011

Director of Administrative Services Visé gave the staff report. With 50 percent of the year complete, revenues are at 32.3 percent of projections while expenditures are at 45.6 percent of appropriations. Revenues are less than budgeted primarily because property tax revenue is not received until January and May each year. The City adopted the 2011-12 Budget using approximately $2.7 million in Local Economic Augmentation Fund (LEAF) reserves as the sluggish economy has taken a heavy toll on the City's revenues. The majority of revenues are showing sign of leveling off and are no longer declining. Sales and Hotel/Bed taxes are the only sources showing increased revenue. However, these increases are offset by declining NHIS revenue. No further revenue would be coming in from the Guadalupe Restoration Project as the project has reached its disposal limit. Increased revenues are attributed from non-Guadalupe sites bringing in greater quantities than normal. In the Water/Wastewater Fund, expenditures exceeded revenues by $1.6 million, primarily due in large part to the semi-annual debt service payment in the first half of the year of $5.2 million. There are sufficient reserves in the combined Water/Wastewater Fund to cover the current shortfall. Debt Service payments are due December 1st and June 1st of each year. The payment in December is interest only in the amount of $222,850. The principal and interest payment that is due in June will be more than $1,443,340 budgeted due to the elimination of Redevelopment Agencies (RDA) under Assembly Bill 26 X1. The General Fund may have to pay the RDA's remaining share of approximately $1 million. The City may have to write off $14 million owed to the General Fund from the RDA.

Councilmember Boysen commented that he noticed that prior-year comparisons were added to the quarterly report. He appreciated the information. It made it much easier for him to understand and was more resourceful.

Councilmember Cordero asked if there was not enough NHIS to cap the current landfill, would the City have to mine the riverbed, and pay to do so.

Director of Utilities Sweet stated that the flow of NHIS may have slowed down at this time, but long-term the City would receive enough soil to perform the capping process. It may take longer than initially anticipated. If the regulating agency said the City could not wait any longer to close the landfill, the closure plan would be revised to minimize the amount of capping material the City would have to bring in; and the closure permit would also be revised to reduce the cost to bring in material to close the landfill.

Mayor Lavagnino asked what the cost of the dirt would have been if the City had to purchase the soil, rather than having NHIS brought in and the City paid to receive it.

Director of Utilities Sweet responded that the total revenue to NHIS was approximately $31 million and the avoided cost was $35 million, totaling $66 million.

Councilmember Cordero asked if there was plans to continue receiving NHIS after closure to be used at the future facility.

Director of Utilities Sweet stated that it was only anticipated that the NHIS would be used for daily closure. The City would take some, but not the amounts taken previously, equal to the flows the City receives today.

CITY MANAGER'S REPORT

City Manager Haydon reported on items anticipated for the February 21, 2012, City Council meeting, including commendations of three All-America City Committee members thanking them for their service, the Listos graduating class, the Volunteer of the Month, a proclamation for FFA week, a public hearing for the Efficiency Unit Ordinance, and annual Technical amendments to the Municipal Code. He also introduced the new City Librarian, Mary Housel, and thanked Principal Librarian Corbett who served as Acting City Librarian.

ORAL REPORTS BY COUNCILMEMBERS

Councilmember Boysen updated the Council on the homeless shelters in Lompoc. The organization that was running the shelters suddenly closed in Lompoc. He was working closely with Good Samaritan. Within two weeks, they were able to open an emergency shelter for families in the Lompoc area. The emergency shelter continued to be closed and was under the jurisdiction of the County. They have hit some road blocks with the County of Santa Barbara and that the closure in Lompoc has caused severe impacts on Santa Maria shelters.

Councilmember Patino reported that she attended the Airport Board meeting, the Fire Appreciation Dinner at the Elks, the City Employee Awards Dinner, a Peace Week meeting at Marian Medical Center, the Discovery Museum, the Mass at St. Mary's for All Catholic Schools Day, and the Scout-O-Rama at the Town Center Mall.

Mayor Lavagnino reported that he attended the Airport Board meeting, the Fire Appreciation Dinner at the Elks, SBCAG and Air Pollution Control Board, a Marian Hospital Foundation Board Meeting, the City Employee Awards Dinner, a CCWA meeting in Buellton, the Muscular Dystrophy Walk Kick-Off at Waller Park, the Mass at St. Mary's for All Catholic Schools Day, the North County Subregional meeting, Cal-Lutheran meeting at Shepard Hall, and a reception at the Library for new Librarian Mary Housel.

Councilmember Orach reported that he worked and attended a number of the same meetings as the other Councilmembers.

Councilmember Cordero reported that he attended the Fire Appreciation Dinner at the Elks, the Economic Development meeting at the YMCA, the City Employee Awards Dinner, a Peace Week meeting at Marian Medical Center, the CAC meeting in Solvang, a budget meeting with the Altrusa Club, the Special Olympics VIP dinner, and a reception at the Library for new Librarian Mary Housel.

Mayor Lavagnino recessed the regular meeting to continue the earlier Closed Session at 8:09 p.m.

CLOSED SESSION

After the Closed Session, the following Closed Session report was given:

Conference with Legal Counsel – Anticipated Litigation: The Council received a briefing on the officer-involved shooting.

ADJOURNMENT

There being no further business to come before the City Council at this time, the meeting was declared adjourned in memory of Janice Hauffman by Councilmember Boysen and in memory of Bob Rivers by Mayor Lavagnino at 9:02 p.m.

APPROVED

February 21, 2012
Date

Acting Chief Deputy City Clerk and ex officio Clerk of the City Council

ATTEST

Acting Chief Deputy City Clerk

Mayor